

Office of the Friend of the Court: Enforcement of Domestic Relations Orders

The office of the friend of the court is required to begin support enforcement action when past due support reaches an amount equal to one month or more of support. This may be done without waiting for a complaint or request for enforcement.

The most common form of child support collection is income withholding. If income withholding is unsuccessful, the office of the friend of the court will often petition for an order requiring the payer to "show cause" why the payer should not be found in contempt for failing to pay the amount of support ordered. The friend of the court office may also use one or more other enforcement remedies, some of which are described in this brochure.

The friend of the court office is also required to provide enforcement services regarding orders for parenting time (visitation).

The office of the friend of the court must begin enforcement of parenting time when it receives a written statement containing specific facts showing a violation of the parenting time order. This statement should include dates, times, and other important information about any claimed denial of parenting time. A party has the right to request the friend of the court office to provide assistance in preparing this written complaint about parenting time.

If the friend of the court office believes that the parenting time order has been violated, the office may complete one or more of the following:

- (1) Apply the local make-up parenting time policy.
- (2) Schedule a contempt of court hearing.
- (3) Refer the parties to a mediator if they agree to mediation.

(4) Schedule a joint meeting at the friend of the court office that may result in a written agreement or a recommended order.

(5) Petition the court for a change in the existing parenting time order.

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Various new laws enable the office of the friend of the court office to engage in additional enforcement remedies to encourage parents to follow court orders. These include:

Surcharge on Child Support

As of January 1, 1996, Michigan Law (Public Act 141 of 1995) requires the the friend of the court office to levy an annual surcharge of 8% on all support payments that are past due as of January 1 and July 1 each year.

The friend of the court office will add a surcharge equal to approximately one-half of eight percent each January 1 and July 1 to all support arrearage amounts. For example, if there is an arrearage of \$1000 on January 1, a surcharge equal to one-half of eight percent, or about \$40, would be added to the amount due. This surcharge is added to all past due support, except for support ordered under the paternity act for the time period before the date of the original order.

Any surcharge collected for support due the custodial parent will be paid to that parent. Any amounts due the state of Michigan, for the period of time the children and custodial parent receive payments through the Family Independence Program (formerly AFDC), will incur a surcharge payable to the state.

Individuals with child support obligations may avoid being charged a surcharge by keeping the child support account current.

Consumer Reporting

The friend of the court office must report to a consumer reporting agency the arrearage amount for each payer who is two or more months behind. Lenders often obtain a credit report from a consumer reporting agency when deciding whether to extend credit. If the credit report shows a history of untimely support payments or a large arrearage, the report may result in a denial of a loan or other credit. Once a support arrearage reaches two or more months, the friend of the court office will send notice to the payer that he or she has been selected for consumer reporting. This notice will let the payer know that the payer will be reported to a consumer reporting agency unless the arrearage is paid in full within 21 days, or the payer requests a review within 21 days. A person subject to consumer reporting may request a review only on the basis of a mistake concerning: 1) the amount of the arrearage, or 2) the identity of the payer.

If the arrearage is not paid in full within 21 days, and there is no finding of a mistake of fact concerning the arrearage amount or identity of the payer, the friend of the court office will report the arrearage to a consumer reporting agency. The friend of the court office will continue to report the arrearage on a monthly basis until such time as the arrearage is eliminated.

The friend of the court office may also make support information available to a consumer reporting agency if requested by the individual paying support.

License Suspension: Support or Parenting Time Violations

For payers with a support arrearage of three or more months, the friend of the court office may take action to have occupational, sporting, recreational, or drivers' licenses suspended. The friend of the court office will send a notice letting payers know their licenses will be suspended.

A payer can avoid license suspension by paying the arrearage in full within 21 days; requesting a hearing within 21 days--if the payer can show that there is a mistake regarding the amount of the arrearage or identity of the payer; or entering into an agreement, which is accepted by the court, for the payment of the arrearage.

In addition to using license suspension for violation of a support order, the circuit court may also suspend occupational, recreational, sporting, or drivers' licenses for violation of parenting time orders. This is done through a contempt of court hearing. At the time of this hearing, the parent who is ordered to appear in court is required to "show cause" why the parent is not obeying the court's order for parenting time. If the court decides the parent is in violation of the court order, the court may order a number of procedures including suspension of that parent's licenses.

The individual's licenses will continue to be suspended until such time as the circuit court enters an order cancelling the suspension.

The Secretary of State will, and Occupational Regulatory Agencies may, charge the individual a license reinstatement fee.

Helpful Hints to Avoid Enforcement

1. If a court orders something, follow the order. If you do not believe the order is fair, you may file a motion to change the order or appeal the judge's decision to a higher court. If you are challenging an order, comply with it until the court changes the order or until an appellate court overturns the order.

2. Keep accurate records. If the court order requires you to pay something, use checks, money orders, or other means which will provide you with a written record of all payments. If you pay by cash, make the payment only to the friend of the court office. Obtain a receipt from the friend of the court cashier.

3. If a parenting time dispute occurs, keep accurate written records showing what happened. Try to work out your dispute with the other party directly. If you and the other party continue to have difficulty resolving the dispute, use the mediation services of the friend of the court office or seek the assistance of an attorney.

4. If you cannot obey an order due to a change in your circumstances, let the other parent, and the friend of the court office, know. The other parent may be willing to try and work out different temporary arrangements.

5. If you experience a change in circumstances and you cannot reach some agreement with the other party and the friend of the court office, you may file a motion with the circuit court to change support and/or parenting time. The friend of the court office will provide you with forms and instructions to file a "do it yourself" (*Pro Se* or *In Pro Per*) motion.

FRIEND OF THE COURT ENFORCEMENT OF DOMESTIC RELATIONS ORDERS

- SURCHARGE ON SUPPORT
- CONSUMER REPORTING
- LICENSE SUSPENSION



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